

MISSOURI ETHICS COMMISSION  
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James Klahr  
Executive Director

May 18, 2017

**Re: Advisory Opinion No. 2017.05.CF.013**

Dear

At the May 18, 2017 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

Pursuant to §105.955.16, RSMo, the Missouri Ethics Commission may issue a written opinion regarding any issue on which the Commission can receive a complaint pursuant to §105.957, RSMo. The Commission receives complaints alleging violation of campaign finance provisions of Missouri law. This opinion is issued within the context of Missouri's laws governing such issues, and assumes the facts presented by you in your letter.

The question presented is:

*Are the state house and state senate committees for each political party designated by the respective majority or minority floor leaders subject to the \$25,000 per election aggregate party contribution limit of Amendment 2?*

**Contribution Limits and Aggregates**

In addition to individual contribution limits of up to \$2,600 to candidate committees for state election, the constitution also provides an aggregate limit of contributions received by a political party as follows:

According to Article VIII, § 23.3:

(2) (a) No political party shall accept aggregate contributions from any person that exceed twenty-five thousand dollars per election at the state, county, municipal, district, ward, and township level combined.

(b) No political party shall accept aggregate contributions from any committee that exceed twenty-five thousand dollars per election at the state, county, municipal, district, ward, and township level combined.

"Political party" is defined under §23.7(22) as "a political party which has the right under law to have the names of its candidates listed on the ballot in a general election."

Political party committees are not specifically referred to in section §23.3(2). This committee type is limited to the specific parties set forth in Chapter 115, the election code. Examples include the state parties and county party central committee. A "political party committee" is specifically defined under §23.7(23):

(23) "Political party committee", a state, district, county, city, or area committee of a political party, as defined in section 115.603, RSMo, as amended from time to time, which may be organized as a not-for-profit corporation under Missouri law, and which committee is of continuing existence, and has the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party.

### **Political Action Committees**

Political Action Committees are defined in Article VIII, § 23.7(20):

"Political action committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee, political party committee, campaign committee, exploratory committee, or debt service committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. Such a committee includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures.<sup>1</sup>

§23.3(12) enumerates what types of entities may contribute to political action/continuing committees and what types of contributions are proscribed. §23.3(12) also prohibits political action/continuing committees from receiving contributions from other political action/continuing committees, candidate committees, exploratory committees and debt service committees.<sup>2</sup>

§23.3(13) creates an exception to the prohibited committee contributions to other committees as follows:

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<sup>1</sup> As noted in MEC Opinion No. 2017.02.CF.002 the Commission interpreted continuing and political action committees to be the same despite the fact that the constitution refers to them in separate subsections.

<sup>2</sup> The constitutionality of §23.3(12) is under litigation in *Free and Fair Election Fund, et al. v. Missouri Ethics Commission, et al. & Missouri Electric Cooperatives, et al. v. State of Missouri, et al.*, Consolidated Case No. 16-04332-CV-C-ODS (Western District of Missouri, Central Division). The specific question of whether the political party aggregate limit applies to committees mentioned in §23.3(13) is not raised in litigation.

(13) The prohibited committee transfers described in subdivision (12) of this subsection shall not apply to the following committees:

(a) The state house committee per political party designated by the respective majority or minority floor leader of the house of representatives or the chair of the state party if the party does not have majority or minority party status;

(b) The state senate committee per political party designated by the respective majority or minority floor leader of the senate or the chair of the state party if the party does not have majority or minority party status.

**Question of whether the \$25,000 aggregate limit applies to state senate and house committees**

For the reasons stated below, it is the Commission's opinion that the \$25,000 political party aggregate limit in § 23.3(2) does not apply to the state senate and house committees specifically referenced in §23.3(13).

§23.3(2) specifically applies the aggregate limit to political parties combined at various levels, including the state level.<sup>3</sup> §23.3(2) references political parties but does not reference political party committees. Those committees by definition have "the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party." §23.7(23) (emphasis added). The specific committees are defined in §115.603, RSMo, the election code, and are state, district, county, city, or area committees of a political party.

The state and house committees identified in §23.3(13) do not fall within the specific committee-types listed in the definition of political party committees. They therefore meet the definition and are registered with the Commission as political action committees or continuing committees. Continuing and political action committees have broader scopes than political party committees as they are formed for the primary or incidental purpose to influence the action of voters for or against candidates or ballot issues. While the House and Senate party committees have historically served the purpose to support or oppose candidates of the respective parties for the House and Senate, their committee definition does not indicate that they are acting on behalf of the political party, and it is possible that they could choose to support or oppose other candidates, or even ballot issues.

These committees are not mentioned in §23.3(2), but instead are referenced in §23.3(13), which purports to exempt these state and house committees from certain prohibitions in the constitution §23.3(12).

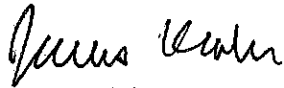
It could be argued that §23.3(2) applies the \$25,000 aggregate limit to the Senate and House party committees because §23.3(2) references political parties at the various levels, and does not

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<sup>3</sup> In MEC Opinion No. 2017.02.CF.007, the Commission stated that the aggregate applies to each election in which a political party participates under the definition of election contained in the constitutional provision.

limit the aggregate to political party committees by definition.<sup>4</sup> In addition, the constitution specifically identifies the state house and senate committees, once designated, as committees of the various political parties, with reference to the chair of the state party. However, as outlined in this opinion, it is the Commission's opinion that the better interpretation of §23.3(2) is that the \$25,000 aggregate limit applies only to political party committees which by definition are organized to influence voters on behalf of the political party.

Sincerely,



James Klahr  
Executive Director

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<sup>4</sup> Unlike §23.3(2), §23.3(3) (a) and §23.3(6) also contain prohibitions that apply to both the political parties and political party committees